

550 New SBA

**COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C §§ 1983**

Name NUNEZ JOSE J

(Last)

(First)

(Initial)

Prisoner Number T-13339

Institutional Address P.O. BOX 600 L-206

TRACY CA 95378-0600

**FILED**

MAY - 9 2007

RICHARD W. WHEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

JOSE NUNEZ

(Enter the full name of plaintiff in this action.)

vs.

DEUL Vocational Institution

P.O. BOX 600

TRACY CA 95378-0600

(Enter the full name of the defendant(s) in this action))

**C-07-2488**

**SBA**

Case No. \_\_\_\_\_

(To be provided by the clerk of court)

**COMPLAINT UNDER THE  
CIVIL RIGHTS ACT,  
42 U.S.C §§ 1983**

**(PR)**

[All questions on this complaint form must be answered in order for your action to proceed.]

**1. Exhaustion of Administrative Remedies**

[Note: You must exhaust your administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.]

A. Place of present confinement Ad-SEG L-Wing 206

B. Is there a grievance procedure in this institution?

YES ( ) NO (✓)

C. Did you present the facts in your complaint for review through the grievance procedure?

YES (✓) NO ( )

D. If your answer is YES, list the appeal number and the date and result of the

1 appeal at each level of review. If you did not pursue a certain level of appeal,  
2 explain why.

3 1. Informal appeal BY PASS 4-17-07

4  
5 2. First  
6 formal level BY PASS 4-20-07

7  
8  
9 3. Second formal level Appeal WAS DENIED  
10 Log# DVI-07-00778 4-26-07

11 4 Third  
12 formal level I TRIED PERSUADING 3rd Level ONCE  
13 WITH NEGATIVE RESULTS DUE TO THE PRISON'S  
14 MISCONDUCT AND FALSE DOCUMENTS.

15 E. Is the last level to which you appealed the highest level of appeal available to  
16 you?

17 YES (✓) NO ( )

18 F. If you did not present your claim for review through the grievance procedure,  
19 explain why. I Appealed this ONCE AND got Negative results  
20 MY Appeal WAS SENT BACK.

21  
22 II. Parties

23 A. Write your name and your present address. Do the same for additional plaintiffs,  
24 if any.

25 JOSE NUNEZ # T-13339

26 P.O. BOX 600 L-206

27 TRACY CA 95378-0600

28 B. Write the full name of each defendant, his or her official position, and his or her

place of employment.

~~None at this moment.~~

### III.

#### Statement of Claim

State here as briefly as possible the facts of your case. Be sure to describe how each defendant is involved and to include dates, when possible. Do not give any legal arguments or cite any cases or statutes. If you have more than one claim, each claim should be set forth in a separate numbered paragraph.

ON Aug. 18, 2006 I WAS placed IN CONFINEMENT BECAUSE OF A INCIDENT THAT OCCURED. AT THE TIME OF INCIDENT I WAS ON THE FLOOR IT HAPPOLED. I WAS LATER CHARGED FOR BATTERY ON INMATE w/ WEAPON. STAFF WHO WAS THERE AT THE SCENE OBSERVED ME IN A DIFFERENT PLACE A TOTALLY OPPOSITE side. BUT INMATES CLAIM THEY SEEN ME DO THIS. HOW IS A INMATES WORD MORE RELIABLE THAN CORRECTIONAL OFFICERS? AT MY HEARING I WAS NOT ALLOWED TO TALK OR HAVE MY WITNESSES PRESENT FOR MY DEFENCE. THE HEARING OFFICER PRINTED FALSE DOCUMENTS THEREFORE MY APPEAL WAS DENIED. THIS IS INCOMPATIBLE WITH THE EMPLOYMENT OF C.D.C. I BEEN IN CONFINEMENT 10 mos AND FEELING MENTALLY ILL AND PASSED MY RELEAVE. CONTINUE.

#### IV. Relief

Your complaint cannot go forward unless you request specific relief. State briefly exactly what you want the court to do for you. Make no legal arguments; cite no cases or statutes.

1 THAT THE 151 DAYS E.D.C. TOOK BE RESTORED  
2 JUST LIKE THE OTHER INDIVIDUAL WHO WAS  
3 CHARGED. ALSO A DISMISSAL.  
4  
5  
6

7 I declare under penalty of perjury that the foregoing is true and correct.  
8

9 Signed this 2 day of MAY, 2007  
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11   
12 (Plaintiff's signature)  
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2

THERE WAS ANOTHER INMATE INVOLVED, NAME IS S. LWA ODC# V-20039. He was also charged but he was given witnesses. He was allowed to present ~~an~~ a defense. We were both charged because of Confidential Material that is not reliable because staff witnessed differently there for the Confidential material was unsubstantiated. There prejudice involved and false documents. I ask that the courts get involved my rights were violated once and now again this is my reason I file a complaint I tried 602 and got negative results. This confinement is getting to me mentally due to the isolation, and stress. I have a family out there who also suffer without my presence. I just want same justice as my CO-DEFENDANT (NOT GUILTY)

Respectfully  
J. NUNEZ

JS 44 - CAND (Rev. 11/04)

**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO.)

<b>I.(a) PLAINTIFFS</b>   <b>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF</b> (EXCEPT IN U.S. PLAINTIFF CASES)	<b>DEFENDANTS</b>   <b>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT</b> (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
<b>(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)</b>	<b>ATTORNEYS (IF KNOWN)</b>

<b>II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)</b>  <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)</b> (For diversity cases only) <table style="width: 100%;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

<b>IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)</b> <input type="checkbox"/> Original Proceeding <input type="checkbox"/> Removed from State Court <input type="checkbox"/> Remanded from Appellate Court <input type="checkbox"/> Reinstated or Reopened <input type="checkbox"/> Transferred from Another district (specify) <input type="checkbox"/> Multidistrict Litigation <input type="checkbox"/> Appeal to District Judge from Magistrate Judgment				
<b>V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)</b>				
<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury Med Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl./Ret. Inc. Security Act	<b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (US Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Amer w/ disab - Empl <input type="checkbox"/> 446 Amer w/ disab - Other <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motion to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

**VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)**

**VII. REQUESTED IN COMPLAINT:** ☐ CHECK IF THIS IS A CLASS ACTION    DEMAND \$  CHECK YES only if demanded in complaint:  
 UNDER F.R.C.P. 23    JURY DEMAND: ☐ YES ☐ NO

**VIII. RELATED CASE(S) IF ANY**    PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

**IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)**  
 (PLACE AND "X" IN ONE BOX ONLY)    ☐ SAN FRANCISCO/OAKLAND    ☐ SAN JOSE

DATE    SIGNATURE OF ATTORNEY OF RECORD